

Appl. No. 09/161,283
Amdt. dated November 11, 2004
Reply to Office Action of April 5, 2004 and Advisory Action of October 19, 2004

REMARKS

Applicant acknowledges the Examiner's careful review of this application. Applicant does, however, respectfully request reconsideration and allowance.

Applicant notes the October 4, 2004 facsimile presenting claims to the Examiner that has not been acknowledged.

Support for the Claim Amendment

The Amendment does not raises a new issue and does not present new matter. Applicant therefore earnestly but respectfully, requests the Examiner to enter this Amendment.

It is respectfully submitted that the resin layer (A) is described in the amended claims 1 and 18 consistent with the original specification at, for instance, page 13, lines 10-16.

It is thought that the insoluble methyl-methacrylate particles are described in the amended claims 1 and 18 consistent with Applicants' original specification at, for example, page 9, lines 8-12, page 10, lines 1-8, page 11, lines 3-8 and from page 16, line 22 to page 17.

Applicant has deleted the expression "have a uniform composition" from the recitation describing the insoluble methyl methacrylate particles. Such deletion is without prejudice.

Applicant has deleted the expression "resin layer (A) has no insoluble methyl methacrylate particles." Such deletion is without prejudice. The Examiner is urged to re-review the Examples relating preparation of resin (A) from which it will be apparent that the language had support in the application as originally filed. One has only to add up the amounts to see this.

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Rule 133 Statement

The language regarding the (A) was discussed with the Examiner on May 5, 2004 and was then stated as satisfactory. That is why it was presented herein and is presented again for consideration.

Applicant does, however, respectfully submit that consisting essentially would be acceptable as well, and would agree to an Examiner's Amendment to such effect as related again hereinbelow, for the reasons previously discussed with the Examiner.

Applicant's legal representative is available to conduct a further interview but the presence of the Supervisory Examiner is respectfully requested.

Amendment Reduces Issues for Appeal

The Advisory Action refers to the September 29, 2004 Amendment and states "[t]he Examiner acknowledges that the proposed amendments would be sufficient to overcome the outstanding 35 U.S.C. 112, first paragraph rejections."

The claims presented herewith present language that is the same as presented on September 29, 2004 but with a corrected Markush Group. The corrected Markush Group was discussed with the Examiner and was presented to him in the facsimile of October 4, 2004.

Issues for any appeal would be reduced since the Examiner has already stated on the record that the 35 U.S.C. §112(¶1) rejections would be overcome.

Entry of this Amendment is therefore respectfully, but earnestly solicited.

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Request for re-consideration and authorized Examiner Amendment

While Applicants have amended claims 1 and 18 to use 'consisting of' in an effort to bring this six year prosecution to close, it is very earnestly suggested that the Examiner re-consider the rejection. It is also very earnestly suggested that the Examiner re-review the Examples for preparing resin (A) whereupon the basis for the language previously objected to (resin (A) not including insoluble methyl methacrylate particles or 'resin (A) consisting essentially of'). It is respectfully, but strenuously, urged that the Examiner reconsider and withdraw the rejection, and furthermore reconsider the language 'consisting essentially of' - which Applicant authorizes the Examiner to enter by an Examiner's Amendment - for the resin (A) recitation.

Conclusion

Applicant very earnestly, but respectfully, solicits favorable consideration of this Amendment followed by a Notice of Allowance.

This Amendment has been filed via facsimile to 703-872-9306 and to 571-273-1510 and to 571-273-1535.

Respectfully submitted,

FITCH, EVEN, TABIN & FLANNERY

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